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August 9, 2019

By Hand

Honorable Alvin K. Hellerstein
United States District Judge
Southern District of New York
500 Pearl Street
New York, New York 10007

Re: *United States v. David Wagner*, 19 Cr. 437 (AKH)

Dear Judge Hellerstein:

I write on behalf of both Mr. Wagner and the Government to respectfully request that the Court terminate certain bail conditions imposed on June 26, 2019, and impose a different set of conditions. The proposed changes are: (1) that the co-signers on the Personal Recognizance Bond be four members of Mr. Wagner's family, rather than three financially responsible persons; (2) the imposition of a condition of curfew enforced by GPS monitoring; (3) the elimination of the condition that the bond be secured by Mr. Wagner's home in Rhode Island because he no longer has any equity interest in the home; and (4) replacing the condition that Mr. Wagner have "no contact with co-defendant(s) or witnesses unless in the presence of counsel" with the condition that Mr. Wagner have "no contact with co-defendant(s) or former employees or investors in the Downing/Cliniflow entities unless in the presence of counsel."

On June 26, 2019, the Court imposed the conditions jointly requested by the parties, which included a \$500,000 personal recognizance bond secured by three financially responsible co-signers, and secured by (a) the single family residence located at 55 Downing Street, East Greenwich, Rhode Island; and (b) the property owned by the defendant located at Bonnet Shores Beach Club, Narragansett, Rhode Island. *See* Docket Number 7.

The proposed changes are as follows: First, the parties respectfully request that the Court replace the condition that the bond be co-signed by three financially responsible persons, and instead impose the condition that it be co-signed by Mr. Wagner's wife and three adult children (Carol Wagner, Jacqueline Wagner, Meredith Wagner, and Jay Wagner, respectively).

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Second, the parties request that the Court impose a condition of curfew to be enforced by GPS monitoring. The parties suggest that the curfew be set such that Mr. Wagner must be home by 11:00 p.m. each night, and that he not leave his house before 7:00 a.m. in the morning. In addition, we ask that the Court allow Mr. Wagner – with advance notice to Pretrial Services – to leave his house after hours when necessary to pick up family members from the train station in Providence.

Third, the parties request that the Court terminate the condition that Mr. Wagner's bond be secured by his home in Rhode Island. While Mr. Wagner has no objection to providing the security, the debt on the home exceeds its value.

Fourth, the parties request that the Court replace the condition that Mr. Wagner have "no contact with co-defendant(s) or witnesses unless in the presence of counsel" with the condition that Mr. Wagner have "no contact with co-defendant(s) or former employees or investors in the Downing/Cliniflow entities unless in the presence of counsel." The original language is too vague to provide notice to Mr. Wagner as to whom he can have contact with, and could lead to him inadvertently violating the conditions of release.

We respectfully request that all other conditions remain in place, with the new conditions to be satisfied by August 16, 2019.

Attached is a proposed Order setting forth the above, which would replace the Order dated June 26, 2019. *See* Docket Entry 7.

Thank you for your consideration of this request.

Respectfully submitted,

/s/ _____
Martin S. Cohen
Ass't Federal Defender
Tel.: (212) 417-8737

cc: Jilan Kamal, Esq.
Sagar Ravi, Esq.

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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:

UNITED STATES OF AMERICA : [PROPOSED]
: ORDER

- V. -

19 Cr. 437 (AKH)

:
DAVID WAGNER,
:
Defendant.

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IT IS HEREBY ORDERED that the release of the defendant, DAVID WAGNER, pursuant to Title 18, United States Code, Section 3142(a)(2)and(c), is subject to these amended conditions:

(1) \$500,000 personal recognizance bond secured by the following:

- (a). Co-signatures of Mr. Wagner's wife and three adult children: Carol Wagner, Jaqueline Wagner, Meredith Wagner, and Jay Wagner, respectively;
- (b). The property owned by the defendant located at Bonnet Shores Beach Club, Narragansett, Rhode Island;
- (c). The defendant shall prepare and file the required documentation to post the above-listed property as security for the bond.

- (2) A curfew between the hours of 11:00 p.m. and 7:00 a.m., to be enforced by GPS monitoring.
 - (a). Mr. Wagner may - with advance notice to the Pretrial Services Office - leave his home after hours to pick up family members from the train station in Providence.
- (3) Surrender all travel documents, with no new applications.
- (4) Travel restricted to the District of Rhode Island, the District of Connecticut, the District of Massachusetts, and the Southern and Eastern Districts of New York, with points in between for travel.
- (5) Mental health evaluation and treatment as directed by Pretrial Services.
- (6) Alcohol consumption limited to two drinks per day.
- (7) Refrain from using or unlawfully possessing a narcotic drug or other controlled substance, unless prescribed by a licensed medical practitioner.
- (8) Refrain from possessing a firearm, destructive device, or any other dangerous weapons.
- (9) No contact with co-defendant(s) or former employees or investors in the Downing/Cliniflow entities unless in the presence of counsel.
- (10) Supervision as directed by Pre-Trial Services.

The conditions previously Ordered on June 26, 2019, see Docket Entry 7, are hereby vacated. The defendant remains released on his own signature, all remaining conditions to be fulfilled by August 16, 2019.

HONORABLE ALVIN K. HELLERSTEIN
UNITED STATES DISTRICT JUDGE
SOUTHERN DISTRICT OF NEW YORK